



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO OIL TRANSPORT, INCORPORATED Chesapeake, VA

SECTION A: Purpose

This is a Special Order by Consent issued under the authority of Va. Code § 62.1-44.34:20(A) by the State Water Control Board to Oil Transport, Incorporated for the purpose of addressing certain violations of the State Water Control Law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Facility" or "Sam's Club" means Sam's East, Inc., located at 735 Southpark Boulevard, in Colonial Heights City, Virginia.

7. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
8. “Oil Transport” means Oil Transport, Incorporated.

SECTION C: Findings of Fact

1. Article 11 of the State Water Control law prohibits the discharge of oil upon state waters, lands, or in storm drains.
2. Code of Virginia § 62.1-44.34:19, requires any person suspected of causing or permitting a discharge of oil or any operator of any facility from which there is a discharge of oil to “immediately upon learning of the discharge” notify the Board.
3. On July 16, 2004, the Department was notified by a third party of a gasoline release that occurred on November 25, 2003 at the Sam’s Club in Colonial Heights, Virginia. Approximately 1,000 gallons of gasoline was reported released at the petroleum dispensing portion of the facility during the transfer of gasoline into an underground storage tank. The UST was being filled by Oil Transport a petroleum transport company under contract by the Facility. The Department was notified by the same third party that the release entered the storm drain and was removed.
4. On July 21, 2004, Oil Transport faxed the Department a report of the release.
5. A Notice of Violation (NOV No. 04-12-PRO-505) was issued by the Department on December 9, 2004 that cited Oil Transport for the following apparent violations:
 - Prohibited discharge of oil into a storm drain;
 - Failure to notify the Department of an oil discharge.
6. On March 3, 2005, Oil Transport faxed the Department a document indicating that an attempt was made by phone to notify the DEQ within 24 hours of the spill. The number of gallons of petroleum released was also revised based on new information.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 62.1-44.34:20(A) orders Oil Transport and Oil Transport voluntarily agrees to pay a civil charge of \$887 within 30 days of the effective date of the Order in settlement of the violation cited in this Order. When making payment, Oil Transport shall reference this Order and shall include its

Federal Identification Number. Payment shall be made by check payable to the “Treasurer of Virginia,” deliverable to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Oil Transport, for good cause shown by Oil Transport, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Oil Transport by DEQ on December 9, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Oil Transport admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Oil Transport consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Oil Transport declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Oil Transport to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing

herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Oil Transport shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Oil Transport shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Oil Transport shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

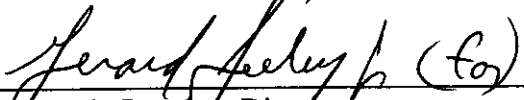
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Oil Transport. Notwithstanding the foregoing, Oil Transport agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Oil Transport petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or,
 - b. The Director or the Board terminates this Order in his or its whole discretion upon 30 days' notice to Oil Transport.

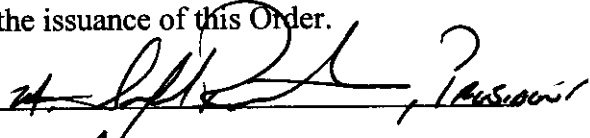
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Oil Transport from its obligation to comply with any statute, regulation, permit condition, other order, certification, standard, or requirement otherwise applicable.

12. By its signature below, Oil Transport voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of July, 2005.


Robert G. Burnley, Director
Department of Environmental Quality

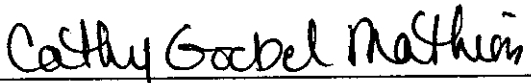
Oil Transport, Incorporated voluntarily agrees to the issuance of this Order.

By: , President
Date: April 19, 2005

Commonwealth of Virginia

City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 19 day of April, 2005, by M. Sanford Richardson, on behalf
(name)
of Oil Transport, Incorporated.


Notary Public

My commission expires: 2/29/08